

*Constructed in the mid-eighteenth century, the original brick portion of 5 Stoll's Alley seen in the left of the photograph was acquired in 1783 by Robert Farquhar, a Revolutionary War blockade runner. The frame addition to the right was built in 1809 by Peter and Elizabeth Farquhar Trezevant, who inherited the property after Farquhar's untimely death in 1784. Courtesy of the author.*



# A BLOCKADE RUNNER, A BON VIVANT, *and the* ELEVENTH AMENDMENT TO THE UNITED STATES CONSTITUTION



*by ROBERT W. TREZEVANT*

**D**uring the American Revolution, the actions of individual South Carolinians who became personally involved in the movement for independence sometimes led to consequences of national significance. One of those individuals was Robert Farquhar of Charleston. In his short life of thirty-nine years, Farquhar experienced both personal tragedy and political tempests, and his actions in support of his adopted state would result in the new republic's first constitutional crisis and the Eleventh Amendment.

Born in Bilbo, Scotland, to John and Elizabeth Chalmers Farquhar in 1743, Robert Farquhar had three younger sisters and a younger brother, John. With prospects in Scotland bleak and no money for higher education, he left his family and homeland for the opportunities offered in the American colonies. In 1760, at the age of seventeen, he arrived in Charleston. There, he became a merchant, ship's owner and captain, and maritime trader, docking in ports from New York to Savannah and even farther afield in Bermuda, the Bahamas, and the Span-

ish Caribbean. He was soon able to send funds to his family in Scotland, allowing his brother to attend medical school and enter the British Indian Army with a purchased commission. In India, John Farquhar became wealthy from the manufacture of gunpowder. His death would later affect the lives and fortunes of Robert Farquhar's descendants.

In 1771, Farquhar married Elizabeth Fagan in Charleston. The couple's only child, Elizabeth Willoughby Farquhar, was born in December 1772. Less than a month later, however, Elizabeth Fagan Farquhar died, leaving her husband with their infant daughter, called Betsey. She was put in the care of Elizabeth Dicott, her maternal grandmother.

Farquhar's business dealings would put him right in the middle of the political turmoil soon to envelop the American colonies and their parent, Britain. Colonists, who more and more identified themselves as American patriots rather than loyalists to the Crown, began to take action. Citizens of Charleston responded to British economic provocations by forming a committee of thirty-nine planters, mechanics, and merchants to push for the nonimportation of British goods. One member of the committee was Theodore Trezevant Jr., from a third-generation Huguenot family. Originally a tailor, he had established a clothing manufacturing business and was contracted by the state of South Carolina to supply uniforms and military accoutrements for the patriot cause, first to the militia and then to the regulars. Farquhar, in turn, was engaged to procure the materials necessary for Trezevant's enterprise. After Farquhar's death in 1784, his estate would end up in the hands of Theodore's son, Peter, who married Elizabeth Willoughby Farquhar.

As sentiments for independence increased, the First Continental Congress convened in Philadelphia in September 1774. In January 1775, the First Provincial Congress of South Carolina met at Charleston, with Theodore Trezevant Jr. among its deputies. On February 1, an association called the Council of Public Safety, a successor to the earlier committee of thirty-nine, was formed to further oppose the importation of British goods. The British then attempted to blockade American ports in order to prevent both the importation and exportation of supplies that would aid the cause of American independence. As a seafaring tradesman, Farquhar could easily become subject to suspicions among both patriots and loyalists. In fact, he was called before the council in January 1776 to explain why his schooner, the *Lovely Betsey*, had anchored in the Kiawah River. Farquhar appeared and stated that he was loading a cargo of

rice for a Captain Morgan, which satisfied the council. Afterward, Farquhar continued to act as a blockade runner for the patriots, using the *Lovely Betsey* to evade the British.

The Second Continental Congress adopted the Declaration of Independence on July 4, 1776, just days after the British tried to seize Charleston but were defeated at the Battle of Sullivan's Island on June 28. As the war on land and sea expanded, Robert Farquhar continued his blockade running—until he was intercepted by a British cruiser off the coast of Georgia in October 1777. Peter Trezevant later described this event, which would have unexpected consequences:

*During the Revolutionary War, Mr. Robert Farquhar ... was on a voyage from one of the neutral West Indian Islands bound in a small vessel with a cargo of Cloths, Cottons, Linens, Blankets, etc. bound for Charleston, S. Ca. but when off the Coast of Georgia was pursued by a Cruiser. He ran into Tybee for safety, went up to the port of Savannah, reported at the Custom House, for permission to land his Cargo, & to transport it through the inland navigation to Charleston, but was refused as those articles were wanted for the use of the Army & Navy of the State of Georgia—the then Governor and Council appointed a Deputation to make a purchase of them which was declined by Mr.*

*Farquhar, they then put an armed force on board of the vessel and told Mr. Farquhar that if he did not choose to make a sale of the said goods, that Messrs. Thomas Stone, Edward Davis [Davies] and other persons, names not now recollected, should proceed to discharge the cargo [sic], put their own price to each article which should be decisive as to the amount to be paid for said goods. Mr. Farquhar then determined to make the best bargain he could, with the Commissioners and the amount agreed upon was seven thousand five hundred and eighty six pounds ten shillings Stg pble [sterling payable] in a given date.*

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—PETER TREZEVANT

The sale between Farquhar and Georgia's deputies, Stone and Davies, was contracted on October 31, 1777. Farquhar was to deliver the commodities to Savannah by December 1, at which time he would be paid. He made good on his word, but payment was refused, even after repeated appeals from him. In October 1779, under pressure from Farquhar, the Executive Council of Georgia authorized Stone and Davies to reimburse

South Carolina Charleston			
The State of Georgia			
To the State of Robert Farquhar Dr.			
1777			
October 17 P: Cloth 709 Y <sup>ds</sup>	@ £30 per yard	21270. 0. 0	
" 35 p: Ditto 1200 Y <sup>ds</sup>	a £15 per yd.	10911. 5. 0	
26 Great Coats	a £30 each	780. 0. 0	
4 jackets	a £20 each	800. 0. 0	
21 lbs of fine Thread	a 35 per dz.	580. 0. 0	
" 220 lbs of coarse Ditto	a £7 per lb.	1540. 0. 0	
" 14 pieces coarse check	660 yds @ 35/	1155. 0. 0	
87 bundles sewing silk	32 lbs at £50	1000. 0. 0	
" 6 p: Holland Check	9261 yds 60/	278. 15. 0	
" 20 doz Handkerchiefs	a 32/6 ea	516. 0. 0	
" 35 P: Pinon 23 Y <sup>ds</sup> in 9/3 Y <sup>ds</sup>	a 10/	1750. 0. 0	
579 Blankets	a £30 ea	11370. 0. 0	
		68605. 0. 0	
Reduced into Dollars @ 32/6 ea as per Contract See			
Minutes of Council dated 31 <sup>st</sup> Oct. 1777		Dollars	
Depreciation 31 <sup>st</sup> Oct. 1777 83 6/4		is 391411 50 90	
per 100 Dollars in Specie		32512 9/4 4/8	
or State 3 money Dollars		£386. 10. 1"	
at 48 each			

Dated February 15, 1838, this document provides a detailed listing of the items confiscated from Robert Farquhar by Georgia officials in 1777 and was used by Peter Trezevant to pursue his case against the state. From the collections of the South Carolina Historical Society.

him for the goods commandeered in 1777 at the purchase price of £7,586. However, the two agents pocketed the money, so he never received any compensation.

As the Revolutionary War continued, Britain focused on taking control of southern ports. Savannah was seized in 1778, and the next goal was Charleston. In May 1780, the city fell to British occupation after a month-long siege, but the tide of the war soon turned in favor of the Americans. Still, even after the British surrendered at Yorktown in October 1781, the occupation of Charleston persisted. Patriot forces slowly advanced on the city, and an attack seemed imminent by December. Fearing for his daughter's safety, Farquhar asked the British lieutenant governor to be appointed guardian of nine-year-old Elizabeth, and she was placed under the care of a friend and evacuated to England in January 1782. The House of Commons voted to end the war a few months later, but the occupation of Charleston did not come to a close until the following December.

In March 1783, Robert Farquhar applied to become a citizen of the state of South Carolina. He took the oath of allegiance in April, probably to affirm his patriot stance against any

claims of his being a loyalist. That same month, he made his will, naming Alexander Chisholm, a fellow Scotsman, as executor. Farquhar stipulated that an annual amount of twenty pounds be provided for his parents until their deaths. The remainder of his estate was to go to his daughter, Elizabeth. Also that year, Charleston businessman William Russell was banned as a Tory, and his holdings were confiscated and turned over to the commanders of the treasury. Since Russell was indebted to him, Farquhar applied for and received the deed for Russell's property, including 5 Stoll's Alley in Charleston. With this addition to his earlier purchases and land grants from the governor of South Carolina in 1772 and 1774, Farquhar now had extensive real estate holdings in and around the city.

But tragedy struck in January 1784, when Farquhar sailed on a voyage from Charleston to Savannah in an attempt to collect large sums owed to him by individuals as well as the state of Georgia from 1777. Reportedly, this very experienced ship's captain was knocked overboard by the boom of a pilot boat and drowned, an accident that arouses suspicion. Not only was he a seasoned sailor, but those who owed him money would benefit by his death. He was buried in Savannah while his twelve-year-old daughter was still in England. As executor, Alexander Chisholm took over the management of Farquhar's estate and became Elizabeth's guardian. When Chisholm submitted a full accounting of the estate, it was clear that Farquhar was a wealthy man by the standards of his day. Beyond cash and personal possessions, he owned real estate, marine craft, and slaves.

Elizabeth Farquhar returned to America in December 1788. Nine months later, at the age of

sixteen, she married twenty-one-year-old Peter Trezevant in Charleston. Previously, in 1786, Peter Trezevant had sailed to England on a ship captained by his brother-in-law, William George Cross, an officer in the South Carolina navy during the Revolution. As the son of Theodore Trezevant Jr., Peter Trezevant was a well-educated young man for his time and would most likely have been aware of the fate of Robert Farquhar, his father's acquaintance. It is possible that he met Elizabeth Farquhar while in England. Having married, Elizabeth inherited her father's estate, including 5 Stoll's Alley, and the young couple took up residence there in the brick home built by Justinus Stoll circa 1748.

Soon after, Trezevant learned that Chisholm had done nothing between Farquhar's death in 1784 and his daughter's marriage in 1789 to pursue his claim against the state of Georgia. Trezevant immediately went to Savannah and confronted the auditor general of Georgia, who told him that nothing could be done. Granted power of attorney by Chisholm, Trezevant then petitioned the Georgia legislature, attending every session related to the topic and hiring well-known attorneys to aid

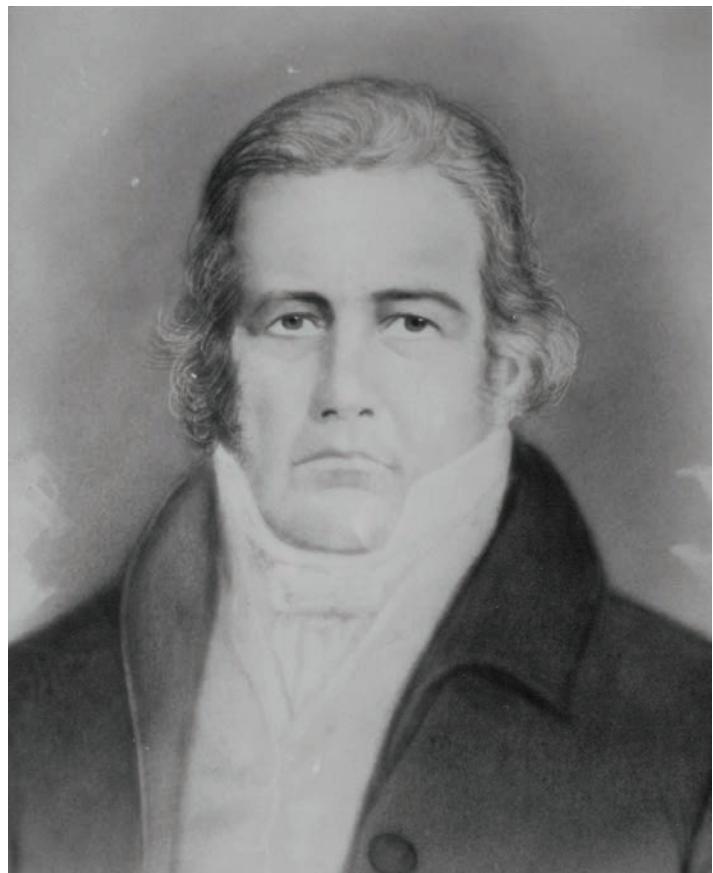
him. But Stone and Davies had already received the monies, so the legislature refused to pay the Farquhar estate. Furthermore, since Davies had died, and Stone was insolvent, they could no longer be sued. Trezevant therefore directed Chisholm to file suit against the state in the United States Circuit Court for the District of Georgia. Meeting in Augusta in October 1791, the court ruled in *Farquhar's Executor v. Georgia* that an individual citizen of one state (or in this case, his estate) did not have the right to sue another state in federal court without its consent.

With Peter Trezevant's backing, Chisholm carried the case to the United States Supreme Court as *Chisholm v. Georgia*. For the state of Georgia, the issue was maintaining its sovereign immunity from lawsuits brought by individuals from other states, a crucial concern because of Revolutionary War debts. The Supreme Court convened for the hearing of the *Chisholm* case in August 1792. The attorneys for the plaintiff were John Hallowell and Edmund Randolph, the first attorney general of the United States. Georgia had not put representation before the court, so the plaintiff's attorneys agreed to postpone the case until February 1793. In a four-to-one decision handed down on February 19, the Supreme Court reversed the circuit court, ruling that the estate of Robert Farquhar did indeed have the right to make a declaration against the state of Georgia. Less than a month later, Peter Trezevant wrote directly to Vice President John Adams and the United States Senate requesting their involvement in making sure that the funds owed by Georgia would be covered. In December 1794, Georgia reached a settlement with Trezevant regarding the Farquhar claim by issuing him eight audited certificates to cover the £7,586 debt.

However, public sentiment in the states ran counter to the Supreme Court's position. In 1793, immediately after the decision, bills were introduced in Congress for an Eleventh Amendment to the Constitution that would overrule the precedent in future cases (the first ten amendments, the Bill of Rights, had been adopted in 1791). These measures initially failed, but in January 1794, they were reintroduced and passed. By February 1795, the requisite number of states had ratified the Eleventh Amendment, and after the addition of South Carolina in 1797, President Adams announced in January 1798 that the amendment had become a part of the Constitution. Counter to *Chisholm v. Georgia*, a citizen of one state could not sue another state in federal court.

Throughout all of this historic litigation, Peter Trezevant benefited from his father's reputation and political connections. He could rely on the legal expertise of his younger brother, Lewis Crouch Trezevant, who had studied law under Charles Cotesworth Pinckney and was admitted to the bar in 1791. Lewis Trezevant was elected a state judge in 1799 and served until his death in 1808.

As legal wrangling continued for decades over the certificates issued to Peter Trezevant by the state of Georgia, he was also aided by three younger attorneys. The first was George Warren Cross, his nephew and the only child of Captain George Cross. Cross studied law under Lewis Trezevant and was admitted to the bar in 1807, eventually becoming a member of the South Carolina House of Representatives. The second was Peter Trezevant's eldest son, John Farquhar Trezevant, and the



Peter (top) and Elizabeth Farquhar Trezevant (directly above) had thirteen children between 1790 and 1815. By the time the couple moved to London in 1826, eight of their children still survived. Courtesy of the author.

third was James Louis Petigru, also born in Charleston and sharing a Huguenot background. Both young men attended South Carolina College at the same time and were admitted to the bar in 1812. The following year, John Trezevant married Margaret Pepper Gignilliat, the daughter of James and Charlotte Pepper Gignilliat. His first law partner was George Warren Cross, and in 1820, he and James Louis Petigru became law partners. Unfortunately, John Trezevant died of “biliary fever” at the age of twenty-nine in 1821, leaving a widow and five young children. Petigru became the attorney general of South Carolina in 1822 and would continue to assist Peter Trezevant in settling the certificate issue with Georgia, a situation that was not resolved until 1847.

The career of Peter Trezevant had over the years involved much more than pursuing litigation. As a youth, he reportedly sold ship and pilot bread and then became a general merchant. His interests broadened to finance, and he negotiated securities. From 1799 to 1801, he served in the United States Navy as purser on the frigate *John Adams*, which was funded by Charlestonians, built for the navy in Charleston, and launched in 1799 under Captain George Cross. Trezevant worked as a discount clerk at the state bank, a drawback clerk at the customhouse, and a registering clerk of customs, in addition to being a notary public. He also supervised the finances of the South Carolina Society, a charitable organization that constructed its hall at 72 Meeting Street from 1799 to 1804. Despite his reputation as a bon vivant, Trezevant was a trusted and respected businessman.

Though Trezevant profited from his own endeavors and was never truly poor, he clearly benefited from his wife's estate. The couple inherited their home at 5 Stoll's Alley, which they expanded with a frame addition in 1809. And the records show that he could afford to hire prestigious lawyers during his long periods of litigation.

Still, the lives of Peter and Elizabeth Trezevant changed dramatically in 1826, when Elizabeth's wealthy, unmarried uncle, John Farquhar, died in London. As the eldest of his nephews and nieces, Elizabeth Trezevant inherited the bulk of his estate, which was resolved in 1836 after more litigation driven by her husband. In the case against her first cousins, *Trezevant v. Mortimer*, she was represented by the King's solicitor, and the claim was settled in the House of Lords by the Lord Chancellor. The Trezevants took full advantage of their new wealth by living a life of luxury at 31 Chester Terrace in London's elegant Regent's Park. They provided for their young and unmarried

children who accompanied them to England and continually sent goods and funds to their married children remaining in the States. Elizabeth Farquhar Trezevant died at 31 Chester Terrace in 1845, and Peter Trezevant died in Brighton in 1854.

The wheel of immigration had come full circle. Robert Farquhar left Britain to make his way in America, supported the American Revolution, and ended up providing the genesis for the Eleventh Amendment to the United States Constitution. Peter and Elizabeth Trezevant, after inheriting from both Farquhar and his brother, John, could afford to leave America to enjoy life in Queen Victoria's London. Even before acquiring great wealth, Peter Trezevant was already accustomed to enjoying himself. As Mary R. Dockstader reported about his life in Charleston: “One day a week it was his custom to repair to the market and invest all his funds of the moment in a choice sheepshead, or cavalli, along with a bottle of wine. Then in a

spirit of true Gallic hospitality and light-heartedness he would invite a friend to dine and become, for that brief interval, a gentleman of substance.” Noting Trezevant's reaction to his wife's good fortune, A. S. Salley Jr. wrote, “He is said to have remarked that he had been poor all his life, but that thereafter he expected to live on turbot, and it is also said that friends who afterwards dined with him in England found him living up to his expectations.” To a friend visiting from Charleston, Trezevant himself observed, “Not much like Stoll's Alley, eh?” ♦



*According to Historic England, Chester Terrace is a “grand palace-style terrace” with the “longest unbroken façade in Regent’s Park.” The Trezevants moved to 31 Chester Terrace (shown here) after inheriting the bulk of John Farquhar’s estate. Courtesy of the author.*

*Robert W. Trezevant is a retired elementary school teacher with a lifelong interest in family history, especially as related to Charleston. He is a member of the Huguenot Society of South Carolina, the Historic Charleston Foundation, and the South Carolina Historical Society. Documentation for this article can be found on his website, [www.trezevantfamilyproject.com](http://www.trezevantfamilyproject.com). His wife, Katherine Gervais Trezevant (1936–2004), was a descendant of John Lewis Gervais and Nathaniel Lebby. The website contains biographical sketches pertaining to the Farquhar, Gignilliat, Trezevant, Gervais, and Lebby families as well as timelines for Chisholm v. Georgia and 5 Stoll's Alley.*

*The SCHS is grateful to the author for his donation of Trezevant family legal papers to our archives. These include a timeline of events covering 1769 to 1826, a copy of the will of John Farquhar, an 1840 deposition by Peter Trezevant, and the document pictured on page 15.*